

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:08cr206**

UNITED STATES OF AMERICA,)
)
)
Vs.)
)
RICHARD LEE ALEXANDER.)
)
)
)
_____ ORDER

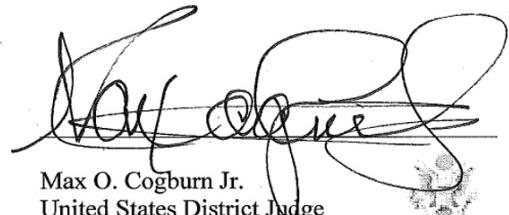
THIS MATTER is before the court on defendant's Motion to Withdraw Guilty Plea (#16). While the motion became ripe August 2, 2010, review of the pleadings and upon information received from counsel the key issue raised by defendant in this action is pending before the Court of Appeals for the Fourth Circuit in United States v. Simmons, No. 08-4475 (4th Cir. 2011), which will be reheard *en banc* May 11, 2011. This court has already continued sentencing of defendant based on the pendency of such appeal. Text Order, 5/9/2011.

The court will, therefore, stay consideration of the defendant's Motion to Withdraw Guilty Plea pending decision of the appellate court in Simmons. When decision issues in Simmons, respective counsel shall, either in a joint filing or independently, promptly file a notice of decision, annex thereto a copy of the decision in Simmons, and propose what further action should be taken in this matter in light of such decision.

ORDER

IT IS, THEREFORE, ORDERED that consideration of defendant's Motion to Withdraw Guilty Plea (#16) is **STAYED** pending decision of the Court of Appeals for the Fourth Circuit in United States v. Simmons, supra.

Signed: May 10, 2011



A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", is written over two lines. The signature is fluid and cursive.

Max O. Cogburn Jr.
United States District Judge